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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/459,141	06/02/1995	PHILLIP W. BERMAN	P0233C6	3929

22798 7590 01/26/2004

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EXAMINER

WINKLER, ULRIKE

ART UNIT PAPER NUMBER

1648

DATE MAILED: 01/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Interview Summary

Application No.

08/459,141

Applicant(s)

BERMAN ET AL.

Examiner

Ulrike Winkler

Art Unit

1648

All participants (applicant, applicant's representative, PTO personnel):

(1) Emily Haliday (App Rep)

(3) _____

(2) Ulrike Winkler (PTO)

(4) _____

Date of Interview: 21 January 2003.

Type: a) ☒ Telephonic b) ☐ Video Conference
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☐ No.

If Yes, brief description: _____.

Claim(s) discussed: all pending.

Identification of prior art discussed: _____.

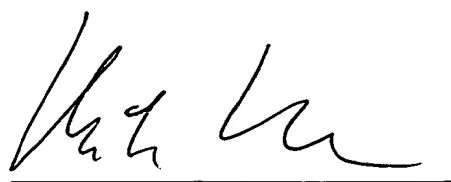
Agreement with respect to the claims f) ☒ was reached. g) ☐ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Applicants submitted an informal communication requesting consideration whether the proposed amendments (see attached fax from) to the claims would be entered at this stage of the prosecution. As the amendments appear to be for clarification purposes and they do not affect the claims substantively, they will be entered.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.


Examiner's signature, if required

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

INFORMAL COMMUNICATION
PROPOSED CLAIM AMENDMENTS

Our Ref. 402E-978316US

Genentech Ref. P0233C6

USSN 08/459,141

1-9. (Cancelled)

10. (Previously Presented) An immunogenic composition comprising a truncated, membrane-free derivative of a polypeptide comprising a membrane-binding domain and antigenic determinants capable of raising neutralizing antibodies against in vivo challenge by a pathogen, wherein said derivative:

(a) is devoid of the membrane-binding domain whereby the derivative is free of membrane, and

(b) has exposed antigenic determinants capable of raising neutralizing antibodies against in vivo challenge by the pathogen.

11. (Previously Presented) An immunogenic composition according to Claim 25 wherein the derivative is a derivative of glycoprotein D.

12. (Previously Presented) An immunogenic composition according to Claim 25 wherein the derivative is a derivative of glycoprotein C.

13. (Previously Presented) An immunogenic composition according to Claim 25 wherein the derivative is a derivative of glycoprotein B.

14. (Previously Presented) A method of producing an immunogenic composition according to any one of Claims 10, 11, 12, or 13, said method comprising preparing a nucleic acid encoding said derivative, incorporating said nucleic acid into an expression vector, introducing said vector into a host cell, and collecting the derivative as a secretion product.

15. (Previously Presented) A method according to Claim 14 wherein the host cell is a stable eukaryotic cell line.

16. (Previously Presented) A method according to Claim 15 wherein the host cell is a mammalian cell line.

17. (Previously Presented) A method according to Claim 15 wherein the cell line is deficient in the production of dhfr and the vector contains a dhfr selectable marker.

18. (Currently Amended) A method according to Claim 14 wherein the derivative is a derivative of glycoprotein D of herpes simplex virus type 1 or type 2.

19. (Previously Presented) A method according to Claim 18 wherein the derivative comprises the first 300 amino acid residues of the glycoprotein D.

20. (Previously Presented) An immunogenic composition according to Claim 25 wherein said immunogenic composition comprises a mixture of glycoproteins or glycoprotein derivatives.

21. (Previously Presented) An immunogenic composition according to Claim 20 wherein said mixture comprises glycoprotein C or a derivative thereof and glycoprotein D or a derivative thereof.

22. (Previously Presented) An immunogenic composition according to Claim 20 wherein said mixture comprises glycoprotein D or a derivative thereof.

23. (Previously Presented) An immunogenic composition according to Claim 22 wherein said mixture further comprises glycoprotein B or a derivative thereof.

24. (Cancelled)

25. (Previously Presented) An immunogenic composition according to Claim 10 wherein the derivative is a derivative of a herpes glycoprotein.

26. (Currently Amended) An immunogenic composition according to Claim 25 wherein the derivative is a derivative of a glycoprotein of herpes simplex virus type 1 or type 2, and the pathogen is herpes simplex type 1 and/or type 2.

27. (Previously Presented) An immunogenic composition according to Claim 25 wherein said derivative is produced in a stable eukaryotic cell line.

28. (Previously Presented) An immunogenic composition according to Claim 27 wherein said cell line is a mammalian cell line.

29. (Previously Presented) An immunogenic composition according to Claim 11 wherein said derivative comprises the first 300 residues of glycoprotein D.

30. (Currently amended) A method according to Claim 14 wherein the derivative is a derivative of glycoprotein C of herpes simplex virus type 1 or type 2.

31. (Currently amended) A method according to Claim 14 wherein the derivative is a derivative of glycoprotein B of herpes simplex virus type 1 or type 2.

32. (Currently amended) A nucleic acid encoding a truncated, membrane-free derivative of a polypeptide comprising a membrane-binding domain and antigenic determinants capable of raising neutralizing antibodies against in vivo challenge by a pathogen, wherein said derivative [is]:

- (a) is devoid of the membrane-binding domain whereby the derivative is free of membrane, and
- (b) has exposed antigenic determinants capable of raising neutralizing antibodies against in vivo challenge by the pathogen.

33. (Previously Presented) The nucleic acid of Claim 32 wherein the derivative is a derivative of a herpes glycoprotein.

34. (Previously Presented) The nucleic acid of Claim 33 wherein the derivative is a derivative of a glycoprotein of a herpes simplex virus type 1 or type 2, and the pathogen is herpes simplex type 1 and/or type 2.

35. (Previously Presented) An expression vector comprising a nucleic acid according to Claim 32.

36. (Previously Presented) A stable host cell comprising an expression vector according to Claim 35.

37. (Previously Presented) A host cell according to Claim 36 wherein the host cell is a eukaryotic cell.

38. (Previously Presented) A host cell according to Claim 37 wherein the host cell is a mammalian host cell.

39. (Previously Presented) A method of producing a truncated, membrane-free derivative of a polypeptide comprising a membrane-binding domain and antigenic determinants capable of raising neutralizing antibodies against in vivo challenge by a pathogen, said method comprising:

- (a) culturing the host cell of Claim 36; and
- (b) recovering the derivative from the culture.

40. (Previously Presented) An immunogenic composition comprising a truncated, membrane-free derivative of a polypeptide comprising a membrane-binding

domain and antigenic determinants capable of raising neutralizing antibodies against in vivo challenge by a pathogen, wherein said derivative:

- (a) is devoid of the membrane-binding domain whereby the derivative is free of membrane, and
- (b) has exposed antigenic determinants capable of raising neutralizing antibodies against in vivo challenge by the pathogen, wherein the pathogen is a virus.

41. (Previously Presented) An immunogenic composition comprising a truncated, membrane-free derivative of a polypeptide comprising a membrane-binding domain and antigenic determinants capable of raising neutralizing antibodies against in vivo challenge by a pathogen, wherein said derivative:

- (a) is devoid of the membrane-binding domain whereby the derivative is free of membrane, and
- (b) has exposed antigenic determinants capable of raising neutralizing antibodies against in vivo challenge by the pathogen, wherein said pathogen is a virus selected from the group consisting of herpes virus, influenza virus, foot and mouth disease virus, hepatitis virus, vesicular stomatitis virus and rabies virus.

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Jonathan Alan Quine**

Fax (urgent)

PERSONAL AND CONFIDENTIAL

To: Examiner Winkler	From: Emily M. Haliday
Fax: (703) 746-3162	Date: January 16, 2004
Phone: (703) 308-8294	Pages: 5 (including cover)
Re: Application No. 08/470,107	Our File: 402E-978318US

☒ **Urgent** ☐ **For Review** ☐ **Please Comment** ☐ **Please Reply** ☐ **Please Recycle**

INFORMATION COMMUNICATION TO EXAMINER WINKLER, ART UNIT 1648

Dear Examiner Winkler:

Please call me at (510) 369-7509 to discuss the attached proposed claim amendments.

Best regards,
Emily M. Haliday, Reg. No. 38,903

Please confirm receipt of this facsimile to Tracie Brooks, Assistant to Emily M. Haliday via e-mail to tbrooks@quinelaw.com.

IMPORTANT: This message is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential, and/or exempt from disclosure by applicable law or court order. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return the original message to us at the above Alameda address via the United States Postal Service. Thank you.